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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Division Bench: - Hon'ble Shri S.R. NAYAK, CJ
& Hon'ble Shri Satish K Agnihotri, J.

Misc. Appeal No. 572 OF 2005

APPELLANTS
CLAIMAINTS

1. Smt. Pushpa Sharma, aged about 48 years, widow of D.K. Sharma
2. Prabhakar Sharma, S/o D.K. Sharma, aged about 18 years,

Both residents of Lakhenagar, Raipur, District Raipur (C.G.)

Versus

RESPONDENTS
NON-APPLICANTS

1. Vikram Naik, S/o Arun Kumar Naik, resident of Nehru Nagar, Kalibadi Chauk, Raipur, Tahsil and District Raipur (C.G.) (driver of Maruti Van No. C.G. 07 ZD 2835)
2. Mohammed Faizal, S/o Md. Akit Musalman, resident of Chhotapara, PS: City Kotwali, Tehsil & District: Raipur (C.G.) (real owner of Maruti Van No.CG-07/ZD-2835)
3. Smt. Sapan Laxmi Bharti, Behind Hotel Guru, Pandari, Raipur (C.G.) (registered owner of Maruti Van No.CG-07/ZD-2835).
4. The New India Insurance Company Ltd., Through Divisional Manager, The New India Insurance Company Ltd., Jail Road, Raipur (C.G.) (insurer of Maruti Van No.CG-07/ZD-2835).
5. Dr. K. Sharma, S/o Vidya Prasad Tiwari, R/o Lakhenagar, Raipur, Tehsil & District: Raipur (C.G.)

Present:

Mr. S.C. Verma, learned counsel for the appellants.

Mr. Prashant Jayaswal, learned Senior Advocate with Mr. Amrito Das, Advocate for respondent No.4/Insurance Company.

ORAL ORDER

(Passed on 1st December, 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

In a death case, the mother and younger brother of the deceased who are claimants not being satisfied with the compensation awarded by the MACT, have preferred this appeal. The only contention of learned counsel for the appellants is that in assessing loss of dependency the Tribunal has wrongly applied multiplier 12 instead of multiplier 13. It was pointed out that on the date of the death, the mother was 47 years of age and therefore, appropriate multiplier to be applied is 13 as per 2nd Schedule of the Motor Vehicles Act, 1988. That is the only contention urged before us by learned counsel for the appellants. The grievance made before us by learned counsel for the appellants is well justified.

2. Having regard to the age of the mother of the deceased, the Tribunal ought to have applied multiplier 13 to assess loss of dependency. In that view of the matter, we award a sum of Rs.4,26,504/- (Rs2,734/- x 12 x 13) towards loss of dependency in substitution of Rs.3,93,696/- awarded by the Tribunal under the said head.

3. The appeal is allowed to the above extent. The impugned award shall stand modified in terms of our order. In all other respects, the impugned award shall remain unaltered. There is no order as to costs.

Sd/-
Chief Justice
Judge

Sd/-
Satish K. Agnihotri
Judge

Subbu